

By: Guillen

H.B. No. 2393

A BILL TO BE ENTITLED

AN ACT

relating to insurance premium tax credits for the certified rehabilitation of certified historic structures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 232 to read as follows:

CHAPTER 232. PREMIUM TAX CREDIT FOR CERTIFIED REHABILITATION OF
CERTIFIED HISTORIC STRUCTURES

Sec. 232.001. DEFINITIONS. In this chapter:

(1) "Certified historic structure" means a property in this state that is:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under Section 442.006, Government Code, or as a state archeological landmark under Chapter 191, Natural Resources Code;
or

(C) certified by the commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a local district certified by the United States Department of the Interior in accordance with 36 C.F.R. Section 67.9.

1 (2) "Certified rehabilitation" means the
2 rehabilitation of a certified historic structure that the
3 commission has certified as meeting the United States secretary of
4 the interior's Standards for Rehabilitation as defined in 36 C.F.R.
5 Section 67.7.

6 (3) "Commission" means the Texas Historical
7 Commission.

8 (4) "Eligible costs and expenses" means qualified
9 rehabilitation expenditures as defined by Section 47(c)(2),
10 Internal Revenue Code of 1986, except that the depreciation and
11 tax-exempt use provisions of that section do not apply to costs and
12 expenses incurred by a federal tax-exempt organization, and those
13 costs and expenses are eligible costs and expenses if the other
14 provisions of Section 47(c)(2), Internal Revenue Code of 1986, are
15 satisfied.

16 (5) "Federal tax-exempt organization" means an entity
17 exempted from the federal income tax under Section 501(a), Internal
18 Revenue Code of 1986.

19 (6) "State premium tax liability" means any liability
20 incurred by an entity under Chapter [221](#), [222](#), [223](#), or [224](#).

21 Sec. 232.002. ELIGIBILITY FOR CREDIT. (a) An entity is
22 eligible to apply for a credit against state premium tax liability
23 in the amount and under the conditions and limitations provided by
24 this chapter.

25 (b) An entity may apply for a credit under this chapter only
26 on or after the date the franchise tax under Chapter [171](#), Tax Code,
27 expires, is repealed, or otherwise becomes inapplicable to all

1 taxable entities under that chapter. The comptroller shall publish
2 notice in the Texas Register of the date the condition under this
3 subsection is satisfied.

4 Sec. 232.003. QUALIFICATION. An entity is eligible for a
5 credit for eligible costs and expenses incurred in the certified
6 rehabilitation of a certified historic structure as provided by
7 this chapter if:

8 (1) the rehabilitated certified historic structure is
9 placed in service on or after the date provided by Section
10 232.002(b);

11 (2) the entity has an ownership interest in the
12 certified historic structure in the year during which the structure
13 is placed in service after the rehabilitation; and

14 (3) the total amount of the eligible costs and
15 expenses incurred exceeds \$5,000.

16 Sec. 232.004. CERTIFICATION OF ELIGIBILITY. (a) Before
17 claiming, selling, or assigning a credit under this chapter, the
18 entity that incurred the eligible costs and expenses in the
19 rehabilitation of a certified historic structure must request from
20 the commission a certificate of eligibility on which the commission
21 certifies that the work performed meets the definition of a
22 certified rehabilitation. The entity must include with the
23 entity's request:

24 (1) information on the property that is sufficient for
25 the commission to determine whether the property meets the
26 definition of a certified historic structure; and

27 (2) information on the rehabilitation, and

1 photographs before and after work is performed, sufficient for the
2 commission to determine whether the rehabilitation meets the United
3 States secretary of the interior's Standards for Rehabilitation as
4 defined in 36 C.F.R. Section 67.7.

5 (b) The commission shall issue a certificate of eligibility
6 to an entity that has incurred eligible costs and expenses as
7 provided by this chapter. The certificate must:

8 (1) confirm that:

9 (A) the property to which the eligible costs and
10 expenses relate is a certified historic structure; and

11 (B) the rehabilitation qualifies as a certified
12 rehabilitation; and

13 (2) specify the date the certified historic structure
14 was first placed in service after the rehabilitation.

15 (c) The entity must forward the certificate of eligibility
16 and the following documentation to the comptroller to claim the tax
17 credit:

18 (1) an audited cost report issued by a certified
19 public accountant, as defined by Section 901.002, Occupations Code,
20 that itemizes the eligible costs and expenses incurred in the
21 certified rehabilitation of the certified historic structure by the
22 entity;

23 (2) the date the certified historic structure was
24 first placed in service after the rehabilitation and evidence of
25 that placement in service; and

26 (3) an attestation of the total eligible costs and
27 expenses incurred by the entity on the rehabilitation of the

1 certified historic structure.

2 (d) For purposes of approving the tax credit under
3 Subsection (c), the comptroller may rely on the audited cost report
4 provided by the entity that requested the tax credit.

5 (e) An entity that sells or assigns a credit under this
6 chapter to another entity shall provide a copy of the certificate of
7 eligibility, together with the audited cost report, to the
8 purchaser or assignee.

9 Sec. 232.005. AMOUNT OF CREDIT; LIMITATIONS. (a) The total
10 amount of the credit under this chapter with respect to the
11 rehabilitation of a single certified historic structure that may be
12 claimed may not exceed 25 percent of the total eligible costs and
13 expenses incurred in the certified rehabilitation of the certified
14 historic structure.

15 (b) The total credit that may be claimed on a report,
16 including the amount of any carryforward under Section 232.006, may
17 not exceed the amount of state premium tax liability due for the
18 report after any other applicable tax credits.

19 (c) Eligible costs and expenses may only be counted once in
20 determining the amount of the tax credit available, and more than
21 one entity may not claim a credit for the same eligible costs and
22 expenses.

23 Sec. 232.006. CARRYFORWARD. (a) If an entity is eligible
24 for a credit that exceeds the limitation under Section 232.005(b),
25 the entity may carry the unused credit forward for not more than
26 five consecutive reports.

27 (b) A carryforward is considered the remaining portion of a

1 credit that cannot be claimed in the current year because of the
2 limitation under Section 232.005(b).

3 Sec. 232.007. APPLICATION FOR CREDIT. (a) An entity must
4 apply for a credit under this chapter on or with the report for the
5 period for which the credit is claimed.

6 (b) An entity shall file with any report on which the credit
7 is claimed a copy of the certificate of eligibility issued by the
8 commission under Section 232.004 and any other information required
9 by the comptroller to sufficiently demonstrate that the entity is
10 eligible for the credit.

11 (c) The burden of establishing eligibility for and the value
12 of the credit is on the entity.

13 Sec. 232.008. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
14 that incurs eligible costs and expenses may sell or assign all or
15 part of the credit that may be claimed for those costs and expenses
16 to one or more entities, and any entity to which all or part of the
17 credit is sold or assigned may sell or assign all or part of the
18 credit to another entity. There is no limit on the total number of
19 transactions for the sale or assignment of all or part of the total
20 credit authorized under this chapter, however, collectively all
21 transfers are subject to the maximum total limits provided by
22 Section 232.005.

23 (b) An entity that sells or assigns a credit under this
24 section and the entity to which the credit is sold or assigned shall
25 jointly submit written notice of the sale or assignment to the
26 comptroller on a form promulgated by the comptroller not later than
27 the 30th day after the date of the sale or assignment. The notice

1 must include:

2 (1) the date of the sale or assignment;

3 (2) the amount of the credit sold or assigned;

4 (3) the names and federal tax identification numbers
5 of the entity that sold or assigned the credit or part of the credit
6 and the entity to which the credit or part of the credit was sold or
7 assigned; and

8 (4) the amount of the credit owned by the selling or
9 assigning entity before the sale or assignment, and the amount the
10 selling or assigning entity retained, if any, after the sale or
11 assignment.

12 (c) The sale or assignment of a credit in accordance with
13 this section does not extend the period for which a credit may be
14 carried forward and does not increase the total amount of the credit
15 that may be claimed. After an entity claims a credit for eligible
16 costs and expenses, another entity may not use the same costs and
17 expenses as the basis for claiming a credit.

18 (d) Notwithstanding the requirements of this chapter, a
19 credit earned or purchased by, or assigned to, a partnership,
20 limited liability company, S corporation, or other pass-through
21 entity may be allocated to the partners, members, or shareholders
22 of that entity and claimed under this chapter in accordance with the
23 provisions of any agreement among the partners, members, or
24 shareholders and without regard to the ownership interest of the
25 partners, members, or shareholders in the rehabilitated certified
26 historic structure, provided that the entity that claims the credit
27 must be subject to the tax imposed under Chapter 221, 222, 223, or

1 224.

2 Sec. 232.009. RETALIATORY TAX. An entity that claims a
3 credit under this chapter is not required to pay any additional
4 retaliatory tax levied under Chapter 281 as a result of the credit.

5 Sec. 232.010. RULES. The commission and the comptroller
6 shall adopt rules necessary to implement this chapter.

7 SECTION 2. This Act applies only to a report originally due
8 on or after the date provided by Section 232.002(b), Insurance
9 Code, as added by this Act.

10 SECTION 3. This Act takes effect September 1, 2017.